

Feb 24, 2020

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

SEAN F. McAVOY, CLERK

JASON MARK HART,

Plaintiff,

v.

DR. DANIEL VARNELL, DR.  
PATRICIA ZIESLER, CMHPM  
CRYSTAL CONTRERAS, DR. MARY  
PETERSON, DR. ERIC RAINEY-  
GIBSON, DR. BRUCE GAGE, DR.  
ROD PETERSON, DR. KARIE  
RAINER, and JOHN OR JANE DOES,

Defendants.

No. 4:19-cv-05007-SMJ

**ORDER DENYING MOTION FOR  
DEFAULT JUDGMENT**

Before the Court, without oral argument, is *pro se* Plaintiff Jason Mark Hart's "Affidavit of Default Judgment," ECF No. 37, which the Court construes as a motion for default judgment against Defendant Daniel Varnell, M.D. The motion is addressed to the Clerk's Office and seeks entry of judgment in the amount of \$30,000,000.00 against Defendant Varnell because he has not appeared or filed an Answer. *Id.* at 1.

Default judgment by the Clerk is only available "against a defendant who has been defaulted for not appearing" under Rule 55(a). Fed. R. Civ. P. 55(b).

1 Further, default judgment is not available as to a defendant against whom service  
2 of process has not been affected. *See* Fed. R. Civ. P. 55(a)–(b); *see also Hicks v.*  
3 *Kuula*, No. 05-5137 FDB, 2005 WL 8173059, at \*1 (W.D. Wash. Aug. 3, 2005)  
4 (“It is axiomatic that service of process must be effective under the Federal Rules  
5 of Civil Procedure before a default or a default judgment may be entered against a  
6 defendant.”).


7 Plaintiff has not sought entry of default as to Defendant Varnell. Moreover,  
8 Defendant Varnell has not been served in this matter. Most recently, the Court  
9 received notice that Defendant Varnell no longer lives at the address where the  
10 U.S. Marshals Service attempted to serve him, and the Court directed service of  
11 process at Defendant Varnell’s new address. ECF No. 47. Entry of default or  
12 default judgment are therefore inappropriate at this time. *See* Fed. R. Civ. P. 55(a).

13 Accordingly, **IT IS HEREBY ORDERED:**

14 Plaintiff’s construed motion for entry of default judgment against  
15 Defendant Varnell, **ECF No. 37**, is **DENIED**.

16 **IT IS SO ORDERED.** The Clerk’s Office is directed to enter this Order  
17 and provide a copy to *pro se* Plaintiff and all counsel.

18 **DATED** this 24th day of February 2020.

19   
20 SALVADOR MENDEZ, JR.  
United States District Judge